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MAR 15 2013

Fresno County
2012-2013 Grand Jury
Report # 4

FRESNO COUNTY SUPERIOR COURT
By _____ DEPUTY

Investigation of the New Millennium
Institute of Education

INTRODUCTION

On September 16, 2012 the *Fresno Bee* published a story detailing problems with a charter school within Fresno Unified School District (FUSD), the New Millennium Institute of Education. The article alleged that the school operated in violation of its charter and perhaps was allowed to continue to operate due to the area it served and the presence of a FUSD board member on its payroll. Subsequently two citizens came forth with formal complaints regarding the school.

After a preliminary review of the issues and interviewing people with knowledge of the school's operations, it was concluded that a full-scale investigation by the grand jury was warranted.

BACKGROUND

California Education Code Section 47600 was enacted in 1992 to permit community members to establish schools that operate independently from the school districts in which they are formed. The intent was to allow more creative ways of delivering curriculum, while still holding the schools accountable for meeting established school outcomes. These "charter schools" could focus on targeting the needs of specific student populations. Each charter was granted initially for a period of five years, with the possibility for subsequent five-year renewals based on satisfactory performance.

While charter schools are established under the authority of a local school board, they operate independently of that board's policies. The chartering school board has a limited oversight role that entails making an annual site visit, designating a contact person, reviewing the fiscal condition of the school, and ensuring the school files all reports required of it.

Charter schools, as well as traditional schools, are funded by the State at a per-student rate that is based on average daily attendance (ADA). There are also several other state and federal funding sources which are based on such factors as poverty, lunch programs, non-English speaking students, etc.

New Millennium Institute of Education (NM) was originally chartered in 1998 by Fresno Unified School District (FUSD) under the auspices of Youth Opportunities Unlimited. This organization underwent name and focus changes and is currently called Fresno Career Development Institute, Inc. (FCDI). It continues to be the sponsoring agency of NM. The school's target

population has always been the at-risk students from the West side of Fresno, most of whom had either dropped out or been expelled from traditional schools.

The article in the Fresno Bee and the complainants alleged that NM was being grossly mismanaged, the students were being poorly educated, and there was no financial accountability. Reference was made to the charter renewal process in 2008 when several stipulations were made of NM, but most of those seemed to have been ignored. Further, the article alleged a change in the method of how the students were taught was made, from a "seated" program to one based almost exclusively on independent study, without approval of FUSD.

PURPOSE OF THE INVESTIGATION

After conducting initial interviews and taking a tour of New Millennium facilities the grand jury decided to make an independent recommendation to Fresno Unified School District as to whether the charter for the school should be renewed, as scheduled, at the end of the 2012-13 school year.

DISCUSSION

In May 2008 the charter of New Millennium was renewed with a set of 14 stipulations that were to have been addressed within one year. The most egregious of these issues was the potential need to repay as much as \$2 million to the State Department of Education (CDE) due to failures within the independent study program to properly document the work completed. As of the fall of 2012 there was little documentation that showed the problems had been resolved. The financial issue, however, was negotiated with the CDE whereby the school is repaying \$800,000 over 8 years.

The grand jury decided against getting involved with the issue of a FUSD Board member being in the employ of NM. A FUSD Board member cannot be an employee of a school within FUSD, but charter schools are considered outside the district, hence such employment is acceptable.

The role of the FUSD board concerning oversight of charter schools was questioned during this investigation. Currently the board only reviews the schools when the charters come up for renewal or they become a regular agenda item. FUSD has a one-person office in charge of oversight responsibilities for charter schools. With currently ten schools to oversee, and with an average of two coming up for renewal every year, this person's ability to monitor programs for compliance is limited. In the case of a school such as New Millennium, where many sanctions are imposed as conditions of renewal, the school may not receive the necessary scrutiny. It may be advisable for the FUSD board to have a procedure in place to ensure the school remedies the noted problems.

If stability is the cornerstone of a school, NM is a classic example of an organization in constant flux. The leader of the board has not changed, but he is an individual with admittedly no background in education. Since the 2008 charter renewal there have been at least 6 people

overseeing academics, with such titles as superintendent, principal, and vice principal. The board of directors has lost three of its seven members, and the ten person teaching staff has no members who were with the school in 2008. There clearly is a lack of stability and continuity.

This is a school that claims to have the students foremost in mind, but the evidence points that the primary interest is retaining the charter and the funding associated with it. There are numerous examples of actions taken to meet a standard or impress those with oversight, only to revert back to business as usual once the appropriate notice has been taken of the action. These actions range from seeking WASC (Western Association of Schools and Colleges) accreditation to purchasing unnecessary and unused computerized teaching aids.

In an independent study program students are given a packet of assignments that may encompass several subjects. They are expected to work on that packet during the week, at the end of which they are required to meet with a teacher for one hour to discuss the work. There is no formal instruction of the material by the teacher. At the end of the session with the teacher forms are signed, which become the basis for the payment of ADA money by the CDE. Such a system is ripe for abuse and was the basis for the conditions under which the school was required to repay \$800,000 in unearned funds from a 2008 audit.

The CDE code allows for schools to deliver curricula on an independent study basis. It recognizes there is a student population for which this is an appropriate mode of instruction. There is a web page devoted to the subject: "Is Independent Study Right for My Student?" It notes that in order to be successful, students electing independent study need to be motivated and highly committed, with sufficient academic preparation. The students at NM do not fit this profile. These students have either been expelled or have dropped out of traditional programs and are usually performing below grade level upon entry into NM. They require more, rather than less, attention to their academic needs.

The bottom line is this school, which is chartered to target its programs towards the academic success of a particular student population, has failed miserably to accomplish this goal. After fifteen years of operation the test scores of its students are among the lowest within the schools of FUSD, including other charter and continuation schools, with fewer than five percent proficient in any of the core subject areas. Table 1, STAR Test Results by School/District by Year details these results. In addition to the raw data, there is no indication that any progress is being made to correct these deficiencies. In contrast, FUSD test results show that each year its students reach a higher level of proficiency in every subject area. This is what one should expect from a school chartered to serve a specific student profile.

On page 21 of their 2008 renewal petition, New Millennium made a commitment "...ALL students will participate in the STAR and CAHSEE testing opportunities to demonstrate their progress toward meeting state standards" (emphasis theirs). They note that in the latest year available at that time, 2006-07, a significantly higher percentage had participated in the testing process than ever before (this percentage was 87.2%). It should be noted that the very next

year the percentage dropped to 64%. It would appear the commitment was to charter renewal, not the evaluation of student progress.

The poor performance of New Millennium's students cannot be attributed to a lack of funds. With annual revenues in excess of \$2.2 million (over \$9,000 per student) the school seems to be doing very well financially. For the fiscal year ending 6/30/12 the school had a surplus of \$166,000, which led to a net asset balance of \$464,000. This is after repaying \$100,000 to CDE for the 2009 settlement and \$112,000 to FCDI for administrative services. Over \$400,000 went to "other expenses", a category that excludes any student services or support. It appears New Millennium had resources it could have used to provide additional help to its struggling students.

The grand jury interviewed more than a dozen people with knowledge of New Millennium's operations. Only those who are currently associated with the school believed the school's charter should be renewed. Several derisive comments were made concerning the school, including one that said the school was considered a joke by the community. The first-day enrollment numbers (Table 1) indicate support for the school by the local community is declining. The students being served by this school clearly need to be accommodated, but equally clearly, New Millennium is not the answer. There are a number of alternative schools available to these students, both within FUSD and other charter schools. These students deserve a better opportunity at getting their high school diplomas.

CONCLUSION

After almost fifteen years of operation, New Millennium has shown no indication that it is capable of providing a competent education to its target student constituency. The common criteria for comparison of schools is the standardized tests administered annually to all schools and New Millennium has performed at a rate far below that which should be expected of a school chartered expressly to serve a targeted set of students. We recommend the charter not be renewed.

FINDINGS

- F401 New Millennium utilizes a mode of instruction that is largely inappropriate for their student population.
- F402 After fifteen years, no more than five percent of New Millennium's students are proficient in subject matter considered essential for a high school graduate. This is far less than a comparable charter school, S.O.U.L. (Table 1)
- F403 The Fresno Unified School District Board needs to be more involved in ensuring the conditions and stipulations specified in the Memorandums of Understanding and Notices to Cure are responded to in a timely manner and appropriate actions are taken.

RECOMMENDATIONS

The 2012-13 Fresno County Grand Jury recommends that the following be implemented:

- R401 The Fresno Unified School District Board not renew the charter for New Millennium Institute of Education when it comes up for renewal as of July 1, 2013. (F401, F402)
- R402 The Fresno Unified School District Board implement a process, such as using a subcommittee, whereby charter MOU's are reviewed on a timely basis. (F403)

REQUEST FOR RESPONDENTS

Pursuant to Penal Code §933.05, the Fresno County Grand Jury requests responses to each of the specific findings and recommendations. It is required that responses from elected officials are due within 60 days of the receipt of this report and 90 days for others.

RESPONDENTS

- President, Fresno Unified School District Board of Trustees with concurrence of other board members (F401, F402, F403, R401, R402)

SOURCES AND REFERENCES

"Troubled Charter Keeps Getting Chances"; Alan Wileman and Sam Cosby; Fresno Bee, Sept. 16, 2012, pg 1.

California State Department of Education Web Site: <http://www.cde.ca.gov>; numerous references including test results and statutes

2010-11 and 2011-12 Audited Financial Statements for New Millennium Institute of Education

Witnesses Interviewed included but were not limited to:

Board members and administrators of New Millennium Institute for Education
Former teachers and administrators at New Millennium
Board members, administrators, and staff of Fresno Unified School District

ATTACHMENTS

Table 1

STAR Test Results by School/District by Year

New Millennium Institute of Education

Year	Total enroll 1st Day	Total number tested	Pct Tested	English - Language Arts		History		Mathematics		Science CTS		Science End-of-course	
				Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv
2008	570	365	64.0%	359	3.90%	202	1.50%	224	2.70%	136	2.20%	134	0.70%
2009	264	259	98.1%	254	2.40%	166	4.80%	198	3.00%	59	11.90%	134	2.20%
2010	309	255	82.5%	243	5.30%	147	2.70%	137	6.60%	65	3.10%	75	4.00%
2011	235	176	74.9%	165	2.40%	124	1.60%	98	0.00%	56	0.00%	67	3.00%
2012	184	176	95.7%	167	4.20%	93	1.10%	159	0.60%	48	4.20%	84	4.80%

Cambridge Continuation High School

Year	Total enroll 1st Day	Total number tested	Pct Tested	English - Language Arts		History		Mathematics		Science CTS		Science End-of-course	
				Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv
2009	241	240	99.6%	240	3.80%	208	5.80%	146	1.40%	77	2.60%	78	12.80%
2010	230	225	97.8%	216	4.20%	195	11.30%	126	4.00%	43	0.00%	51	25.50%
2011	234	232	99.1%	228	3.50%	213	12.70%	198	1.50%	49	10.20%	94	21.30%
2012	245	245	100.0%	242	5.00%	227	16.30%	144	0.70%	49	6.10%	87	11.50%

School of Unlimited Learning (S.O.U.L.)

Year	Total enroll 1st Day	Total number tested	Pct Tested	English - Language Arts		History		Mathematics		Science CTS		Science End-of-course	
				Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv
2009	185	155	83.8%	151	6.00%	94	8.50%	77	3.90%	43	4.70%	46	13.00%
2010	155	154	99.4%	153	6.50%	117	6.80%	71	2.80%	46	8.70%	64	9.40%
2011	146	132	90.4%	120	10.00%	93	4.30%	64	3.10%	44	4.50%	57	10.50%
2012	147	146	99.3%	138	9.40%	87	6.90%	81	4.90%	43	7.00%	63	6.30%

Fresno Unified School District *

Year	Total enroll 1st Day	Total number tested	Pct Tested	English - Language Arts		History		Mathematics		Science CTS		Science End-of-course	
				Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv	Students w/scores	Pct Proficient or adv
2009	56,212	55,572	98.9%	52,456	35.90%	15,230	28.50%	51,690	37.10%	15,187	35.00%	13,724	20.50%
2010	55,291	54,868	99.2%	51,442	37.80%	14,836	32.10%	50,646	39.50%	14,932	37.70%	13,171	24.40%
2011	54,550	53,964	98.9%	50,284	39.20%	14,336	34.70%	48,783	40.10%	14,354	39.80%	12,679	26.20%
2012	54,201	53,654	99.0%	49,899	42.10%	14,281	35.70%	49,668	42.30%	14,215	42.30%	12,868	25.90%

* It is noteworthy that in every subject area, each year the percentage of students who are proficient has increased.

Over the past few months New Millennium Institute of Education has been the subject of at least four articles, editorials or op-ed pieces contained in the Fresno Bee that raise the question of our fitness to operate our charter school. These articles became the impetus for a Fresno County Grand Jury inquiry. An editorial on the Grand Jury's findings appeared in the Bee on Sunday, March 24, 2013. With our renewal approaching and our credibility once again publicly questioned, we want to clarify the findings in the Grand Jury report with the facts about our progress.

We believe that FUSD Trustee Board should approve our charter renewal petition because we have complied with every requirement that FUSD and CDE established for the operation of a charter school. We have for several months been under strict review by FUSD charter review committee and expect to get their recommendation for renewal.

We have in the last two years developed and this year implemented an educational/career program that provides service to a segment of students that may otherwise pursue a path of crime, gangs and/or welfare. We accept and attempt to work with students, many of whom have dropped out or been kicked out of schools in Fresno Unified, Washington Unified, Central School Districts, and other charter schools. We try to focus our students on understanding the world of work and prepare them for entry level jobs as the beginning of their careers, and impress upon them the importance of a high school diploma as the first step toward a **successful** career and model citizenship.

The derogatory commentary about New Millennium for the last two years of operation is made by former employees and consultants, none of whom have direct knowledge of what we are doing now. There is some validity in their criticisms which largely accounts for them being former employees and consultants. They are the basis for a Fresno State Student's article published in the Bee. We provided documents to correct many of their comments but they were not reflected in the article.

Our responses and comments to the Grand Jury findings are contained in the following paragraphs:

Grand Jury Committee: ".....The most egregious of these issues was the potential need to repay as much as \$2 million to the State Department of Education (CDE) due to failures within the independent study program to properly document the work completed. As of the fall of 2012, there was little documentation that showed the problems had been resolved. The financial issue, however, was negotiated with the CDE whereby the school is repaying \$800,000 over 8 years."

NMIE Response: It was an independent audit finding that confirmed FUSD's oversight revelation that some of the student files lacked the **signature** of a NMIE employed supervising teacher. As the independent study program was then being operated by an educational consulting service, the Ed Code required student records to be signed by an employee of NMIE as the supervising teacher. The absence of signatures on some student files resulted in an \$870,000.00

disallowance. Our students did received academic credit for their work. The school acknowledged the error and requested that CDE approve a repayment plan. The plan was approved. There was no negotiation, there was never a 2 million dollar repayment issue presented to NMIE.

The Board decided the mode of independent study delivery had to be restructured. With the help of a retired FUSD Independent Study teacher, NMIE redesigned its independent study program to reflect that of Fresno Unified's independent study school, J.E. Young Academic Center. Consequently, in each year since our transition, we have received no audit findings or disallowances.

Grand Jury Committee: ".....In the case of a school such as New Millennium, where many sanctions are imposed as conditions of renewal, the school may not receive the necessary scrutiny. It may be advisable for the FUSD board to have a procedure in place to ensure the school remedies the noted problems."

NMIE Response: We have worked very hard to maintain an effective working relationship with the districts charter office has been an effective monitor of our operations. They have been an invaluable resource to us as a result of multiple on-site visits that have focused on every facet of our operations. We can say that we have benefitted greatly from their expertise and honest counsel.

Grand Jury Committee: ".....Since the 2008 charter renewal there have been at least 6 people overseeing academics, with such titles as superintendent, principal, and vice principal. The board of directors has lost three of its seven members, and the ten person teaching staff has no members who were with the school in 2008."

NMIE Response: In 2008 our board made a conscious decision to delay the hiring of a permanent instructional leader until the issues of a Notice to Cure were resolved. We instead hired interim leaders including a consulting team to transition the school.

Effective charter school operations require a breadth of knowledge in many different areas. We have had mixed results using retired FUSD administrators who have in effect had our charter school operating as a standard district school. We realize that what we needed most, was someone with explicit charter school experience that could lead the school back to its original mission. We feel that we have finally found a leader in our present administrator that fits that profile.

Three of our board vacancies have come as a result of the deaths of former FUSD School Board Trustee William "Bill" Riddlesprigger, Carole Ponchetti and Hon. Judge Lawrence Jones.

In an effort to meet the ever-changing needs of our student population, we have retained more than half of the 2008 teaching staff, most of who are retired from FUSD's J.E. Young Academic Center.

Grand Jury Committee: ".....There are numerous examples of actions taken to meet a standard or impress those with oversight, only to revert back to business as usual once the appropriate notice has been taken of the action. These actions range from seeking WASC (Western Association of Schools and Colleges) accreditation to purchasing unnecessary and unused computerized teaching aids."

NMIE Response: All of our decisions are intended to improve the quality of instruction for our students. All purchases including Instructional Technology aids and software are designed to enhance student achievement. We do fully utilize every tool at our disposal in order to make the curriculum accessible to our students.

We sought WASC accreditation because it was the prudent thing to do. Many charter schools use WASC's Self Study process as a tool to assist in providing introspection into the school's operations. Through the accreditation process we were able to identify our strengths and weaknesses. We used that information to make needed changes. Accreditation validates the integrity of a school's programs in order to support student learning and manage organizational change. That's why schools seek their approval. As a result of the hard work put in by our staff and teachers, we were awarded our WASC accreditation in 2011.

Grand Jury Committee: ".....There is a web page devoted to the subject: "Is Independent Study Right for My Student?" It notes that in order to be successful, students electing independent study need to be motivated and highly committed, with sufficient academic preparation. The students at NM do not fit this profile. They require more, rather than less attention to their academic needs."

NMIE Response: The same document which the Grand Jury cites in the above paragraph also states; "Because students in independent study work closely with their teachers, in one-on-one meetings or small group instruction, independent study can be a highly personalized form of instruction. Independent study also offers a high degree of flexibility and individualization, so it can serve a wide range of students including:

- Students who, for a variety of reasons, have fallen behind in their studies and need an individualized approach to fill in gaps in their learning or make up credits.
- Students who are at risk of dropping out of school. Some districts use independent study as a dropout prevention or recovery mechanism—they have found that for a subset of discouraged students who have very little connection with high school, independent study can sometimes facilitate a turnaround in student engagement. This can happen when students develop close relationships with teachers in one-on-one and small group settings, and when they are able to take charge of their own learning through an individualized approach.”

For years, there has been an ongoing debate on whether or not independent study is an appropriate mode of instruction for students of any background. The value of this debate has not been lost on the leadership at NMIE. We decided to dedicate our resources and our focus to the Personalized Learning model because we viewed its inherent flexibility as a benefit for the majority of our student population, some of whom have children and other responsibilities that restrict their availability for daily instruction. However, considering our at-risk student population and realizing we needed to provide additional interventions within our program to support them and meet them, we developed our Academic Resource Labs (ARC). These three labs are staffed with at least one certificated tutor to provide one-to-one attention and focus on pre-assessed areas of weakness. We never make the assumption that one approach will fit all students.

Additionally, the one-on-one setting allows teachers and personnel to focus on the whole child. We have the opportunity to get to know the students in a more personal manner and identify further needs that are addressed within the school setting. We employ Drug and Alcohol intervention, anger management, gang intervention and socio-emotional counselors that are available to all students.

Grand Jury Committee: “.....After 15 years of operation the test scores of its students are among the lowest within the schools of FUSD, including charter and continuation schools, with fewer than five percent proficient in any of the core subject areas. Table 1, STAR Test Results by School/District by Year details these results. In addition to the raw data, there is no indication that any progress is being made to correct these deficiencies.”

NMIE Response: The students that come to us, as with most charter schools, are already achieving at the lower ends of the performance bands. Whenever we are measuring the progress of students in schools, we have to take into account where the students are beginning. It is unrealistic to set an arbitrary goal for all students in all schools for any given year without first taking into consideration where they are starting. What we also have to do is make sure that we are holding these students to the same high standards in the long run. It takes a while for progress to be made for students who have to catch up. We can say that the biggest difference in what we are doing now as opposed to the past is that we are getting better at focusing on meeting our students at their present levels of performance and providing them the support they need to achieve more. We have become more proficient in our assessment, analysis and corrective action as it relates to student achievement results.

In reference to the data included in Table 1 of the GJ report, STAR Test Results by School/District by Year, we would like to note the following:

- All three schools including NMIE experienced a growth in AYP over the last two years
- NMIE students experienced a growth in Percent Proficient in 4 of 5 categories (that is in contrast to 2 of 5 categories for Cambridge and 3 of 5 categories for S.O.U.L.)
- Although the percentage has fluctuated, NMIE has been able to maintain its Percent Tested well above the low levels of 2008.

Although our achievement levels are nowhere near our intended results for the future, New Millennium has met its API Growth targets for the last 4 years. According to the 2012 Growth API LEA List of Schools Report (CA Department of Education), New Millennium students experienced the third highest API Growth of high schools in the district (25 points), following only S.O.U.L. with 31 points and Hoover with 26 points.

Grand Jury Committee: “Over \$400,000 went to “other expenses”, a category that excludes any student services or support. It appears New Millennium had resources it could have used to provide additional help to its struggling students.”

NMIE Response: The “other expenses” that the report refers to includes Business Operating Services which include Utilities, Rent, Educational Consultants, Advertising, Liability Insurance

and Postage. Each year 90%+ of the budget is allocated to direct student services. Less than 10% is allocated to management expenses in which mandatory oversight fees are included.

We have had meetings with community members concerned with the quality of education we provide. We invited them and continue the invitation to anyone interested in what we do, to visit our school to get a first hand understanding.